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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/823,458	03/30/2001	Todd M. Altman	42390P10396	5718

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EXAMINER

LIEU, JULIE BICHNGOC

ART UNIT	PAPER NUMBER
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2636

DATE MAILED: 07/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/823,458

Applicant(s)

ALTMAN ET AL.

Examiner

Julie Lieu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 23-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 23-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. This Office action is in response to Applicant's amendment filed January 12, 2005.

Claims 1-22 have been canceled. New claims 23-37 have been added.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

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4. Claims 23-26, 28-31, 33, and 35-37 are rejected under 35 U.S.C. 102(e) as being anticipated by Titmuss et al. (US Patent No. 6,397,040).

Claim 23:

Titmuss et al. discloses a system, thus, a method comprising:

- a. Identifying a reference location
- b. Sending consumer information to a portable communication device wherein the consumer information is selected based at least in part on a vendor's proximity to the reference location and one more criteria specified by a user from the portable communication device.

See abstract and summary invention. Also see col. 5, lines 65 to col. 7, line 65.

Claim 24:

The system in Titmuss receives the one or more criteria specified by the user from the portable communication device at substantially the same time of identifying the reference location.

Claim 25:

The criteria specified by a user in Titmuss pertain to at least one of price, distance, or a quality of vendor goods or services. See col. 6, lines 57-62.

Claim 26:

In Titmuss, the consumer information is set in response to request by a user. See col. 6, lines 57-62.

Claim 28:

The system in Titmuss identifies the reference location comprises receiving a GPS coordinates from the portable communication device.

Claim 29:

Titmuss et al. teaches a method comprising:

- a. Transmitting information from wireless communication device, the information including location information and user specified criterion; and
- b. receiving consumer information at the wireless communication device, the consumer information relating to one or more vendor goods or services which satisfy the user specified criterion and proximate to a location associated with the location information.

See abstract and summary invention. Also see col. 5, lines 65 to col. 7, line 65.

Claim 30:

The criteria specified by a user in Titmuss pertain to at least one of price, distance, or a quality of vendor goods or services. See col. 6, lines 57-62.

Claim 31:

The consumer information includes a name of at least one vendor and an associated location of the vendor. Col. 8, lines 25-37.

Claim 33:

In Titmuss, the user specified criterion is entered into the wireless communication device by the user.

Claim 35:

Titmuss et al. discloses a wireless communication device comprising:

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- a. A processor (represented by personal agent 6); and
- b. A memory coupled to the processor, the memory storing instructions that when executed by the processor enable the wireless communication device to transmit information including location information and specified criterion to another device and receive consumer information at the wireless communication device, wherein the received consumer information relates to one or more vendor goods or services which satisfy the user specified criterion and are proximate to a location associated with the location information.

See abstract and summary invention. Also see col. 5, lines 65 to col. 7, line 65.

Claim 36:

The user specified criterion pertains to at least one of a price, a distance or a quality for vendor goods or services. See col. 6, lines 57-62.

Claim 37:

The display on the personal agent 6 is operative to display indicia representing the consumer information received at the wireless communication device.

Claim Rejections - 35 USC § 103

- 5. Claims 27, 32, and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Titmuss et al. (US Patent No. 6,397,040).

Claim 27:

- Titmuss suggest any method of tracking of user location could be used. Col. 12, lines 17-24.
- Thus, it would have been obvious to one skilled in the art to modify the system in Titmuss

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so that the reference location is provided by a user to allow the user get information about other consumer services in a different location than the current location of the user.

Claim 32:

Titmuss suggest to store the user specified criteria in memory of the wireless communication device. Col. 6 line 44 to col. 7 lines 7. Though the memory where the information is stored is a random access memory, a skilled artisan would have readily recognized storing user's preference in a non-volatile memory (e.g. a ROM) as desired because it would prevent the information from being removed accidentally.

Claim 34:

Titmuss fails to disclose that a user specified criterion includes at least one of a price range for an amount of fuel or a minimum distance to travel. However, Titmuss suggests that a user's list preference could be anything desired by the user. Col. 6, lines 59-64. Therefore, it would have been obvious to one skilled in the art to use price range for an amount or a minimum distance to travel as desired.

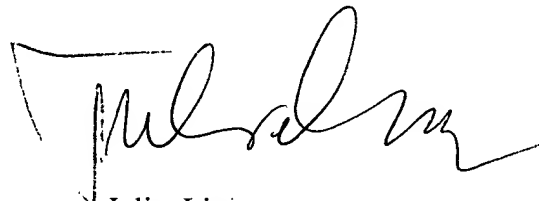
Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julie Lieu whose telephone number is 571-272-2978. The examiner can normally be reached on MaxiFlex.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Hofsass can be reached on 571-272-2981. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Julie Lieu', with a stylized flourish at the end.

Julie Lieu
Primary Examiner
Art Unit 2636

Jul 20, 05